

C. REMARKS

Status of Claims

Claims 1-6, 8-16, 18-25, and 27 are currently pending. Claims 1, 11, and 21 are amended. Claims 7, 17, 26, and 28-41 are canceled.

Interview Summary

On January 26, 2007 at 10 AM EST, an interview was conducted via telephone between Amy Pattillo, Applicants' Representative, and Examiner Rasha Al Aubaidi. No exhibits were shown, nor demonstrations conducted.

Applicants representative submitted a proposed amendment to claim 21 to overcome the rejection of the claim under 35 USC 101 with support in the specification for the amendment in paragraph 0151. Claim 21 is amended herein in the same manner as the proposed amendment. The Examiner indicated that the proposed amendment appeared to overcome the rejection under 35 USC 101, but that additional review would be required for allowance.

No agreement was reached with respect to the claims. Applicant is filing this response for further review by the Examiner.

35 USC 101

The Office Action rejects claims 21-27 under 35 USC 101 as being directed to non-statutory subject matter. [Office Action, p. 2] In particular, the Office Action states that

“Claims 21-27 claims a computer program product comprising a recording medium as disclosed in page 49 of the specification the recording medium comprises ‘transmission-type media such as digital and analog communication links, wired or wireless communications links using transmission forms, such as, for example radio frequency and light wave transmissions.’ Therefore, the claims when interpreted in light of the specification are nothing more than a signal and a signal is nonstatutory subject matter; thereby making the claims nonstatutory. See interim

guideline page 55. Furthermore, 'Data structured not claimed as embodied in computer-readable media are descriptive material per se and are not statutory because they are not capable of causing functional change in the computer.' See page 52 of the Interim guidelines. Since claims 21-27 fails to recite a computer program embodied in a computer-readable media as required by the Interim guideline, claims 21-27 are nothing more than are descriptive material per se and are not statutory." [Office Action, p. 2]

First, as to the issue of nonstatutory subject matter in the claims because the specification describes a recording medium as including transmission-type media, Applicants respectfully note that claim 21 is amended to teach a recordable-type computer-readable medium. In particular, Applicants note that paragraph 0151 of the specification clearly distinguishes a recordable-type computer-readable medium as type a of computer-readable medium separate from a transmission-type computer-readable medium. Therefore, Applicants respectfully assert that claim 21 no longer includes what is currently considered "nonstatutory subject matter" of "transmission forms" in view of the amended limitation of a recordable-type computer-readable medium.

Second, as to the issue nonstatutory subject matter in the claims because the claim does not state the computer program is embodied in a computer-readable media, Applicants respectfully note that claim 21 is amended to teach a computer program product embodied in a recordable-type computer-readable medium. In addition, Applicants respectfully note that paragraph 0151 of the specification describes the computer program product embodied in a recordable-type computer-readable medium, therefore no new matter is added through the amendment. Therefore, Applicants respectfully assert that claim 21, as amended to teach said computer program product embodied in a recordable-type computer-readable medium, recites statutory subject matter which is allowable.

Therefore, in conclusion, In view of the amendments to claim 21 to limit claim 21 to statutory subject matter, based on the specification of the present invention, Applicants respectfully request withdrawal of the rejection of independent claim 21 and dependent claims 22-27 and allowance of these claims.

Claims Amended for Allowance

The Office Action rejects claims 1-6, 8-16, 18-25, 27, and 40-41 under 35 USC 102(e) as being anticipated by Brown et al. (US Patent 6,826,276). [Office Action, p. 3] In addition, the Office Action rejects claims 1-6, 8-16, 18-25, 27, and 40-41 under 35 USC 102(e) as being anticipated by Brown et al. (US Publication 2003/0103619). [Office Action, p. 4] Further, the Office action states that claims 7, 17, and 26 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims. [Office Action, p. 4]

Applicants amend claims 1, 11, and 21 to incorporate, respectively, the allowable subject matter of dependent claims 7, 17, and 26. Therefore, claims 1, 11, and 21 are now allowable as the independent form, including base claims, of allowable claims 7, 17, and 26. In view of the amendments to claims 1, 11, and 21 to incorporate allowable subject matter, Applicants respectfully request withdrawal of the rejections and allowable of claims 1, 11, and 21. In addition, Applicants respectfully request allowable of claims 2-6, 8-10, 12-16, 18-20, 22-25, and 27 as dependent claims of allowable independent claims 1, 11, and 21.

Applicants note that claims 40 and 41 are cancelled. Therefore, in view of the amendments to the claims to incorporate allowable subject matter and the cancellation of claims 40-41, the present application is pending with only allowable claims and Applicants respectfully request a timely issuance of a notice of allowance.

Conclusion

Applicants have amended claims 1-6, 8-16, 18-25, 27 to overcome the rejection of the claims under 35 USC 101 and 35 USC 102(e). Therefore, no grounds of rejection remain applicable in view of the amendments. In view of the foregoing, withdrawal of the rejections and the allowance of the current pending claims are respectfully requested. If the Examiner feels that the pending claims could be allowed with minor changes, the Examiner is invited to telephone the undersigned to discuss an Examiner's Amendment.

Respectfully submitted,

By /Amy J. Pattillo, Reg. No. 46,983/

AMY J. PATTILLO

Registration No. 46,983

P.O. BOX 161327

AUSTIN, TEXAS 78716

ATTORNEY FOR APPLICANTS

Telephone: 512-402-9820

Facsimile: 512-306-0417